9/25/87 R9372-2

Refugee Reports

A Project of the American Council for Nationalities Service
815 Fifteenth Street NW, Suite 610 Washington, DC 20005 (202) 667-0782

Volume VIII, Number 9 September 11, 1987

REFUGEES IN THAILAND: "IS THE GLASS HALF FULL OR HALF EMPTY?"

The overall number of Southeast Asian refugees in Thailand has declined in the last twelve months, and senior U.S. officials have said that "significant numbers" will be resettled next year. But, at the same time, U.S. approval rates are declining and a growing percentage of refugees in Thailand are unlikely to be resettled in other countries, prompting Thai officials to talk about ending the refugee program. With all the ambiguous, and even contradictory, developments in the last year, one official said that trying to analyze the situation "has been rather like the test for optimism: Is the glass half full or is it half empty?"

At a July 31 meeting of Thai and international refugee relief agencies in Bangkok, a senior Thai government official announced that a "time frame" was needed for ending the problem of refugees and displaced persons in Thailand, now entering its twelfth year. The willingness of the international community to share the burden with Thailand is fading, said Suwit Suthanakul, secretary general of the National Security Council (NSC), in a keynote speech at the tenth annual conference of the Committee for the Coordination of Services to Displaced Persons in Thailand (CCSDPT).

Suwit noted "a sharp decline in the rate of resettlement in third countries and their application of immigration principles instead of humanitarian ones in screening the potential resettlers." This shift in focus to immigration criteria, he said, provided both "a precedent and an encouragement for me to take the same stand." He added that, "In the near future, I may have to hold that there are no such displaced persons or refugees immigrating into Thailand at all."

Suwit's statement has provoked considerable discussion among government officials, relief agency staff, and refugee program observers, but little consensus has emerged as to its implications for Thai refugee policy. "We are not sure what this means," one voluntary agency official in Thailand told Refugee Reports, "but we are concerned that there may be more forced repatriations in the future, or even an end to first asylum for some groups."

In March of this year, Thai authorities removed 38

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A sign in Phanat Nikhom speaks of Thailand's feelings for Southeast Asian refugees. Since 1975, Thailand has sheltered close to one million refugees and displaced persons. Of these, 560,000 have been resettled in other countries. Nearly 400,000 remain.

USCR/Court Robinson

Hmong from Ban Vinai camp and handed them over to Lao authorities, claiming they were illegal immigrants. The incident was publicized internationally and prompted formal protests from the U.S. government and the UN High Commissioner for Refugees (UNHCR).

"Certain propositions are sometimes made to provoke a response," said Vitit Muntarbhorn, associate professor of law at Chulalongkorn University, and a noted authority on immigration and refugee law. "The question is whether there is going to be a change in policy regarding refugees." Vitit suggested that "refugee status is not necessarily dependent entirely on what local [Thai government] agencies dictate. One must still consider the international attitudes prevailing." He said he did not foresee forced repatriations happening again, in that "we are a Buddhist country and basically humanitarian."

Thai Officials Call for More Resettlement

"We are scraping the bottom of the refugee barrel," said Virachai Naewboonnien, deputy director of the Thai Ministry of Interior's (MOI) Operations Centre for Displaced Persons. "Embassies are looking only at small percentages" of the 118,000 people in Thailand who are currently allowed to apply for resettlement in another country, he said.

Citing examples of these "small percentages," Virachai said he expected that embassies of the resettlement countries--primarily the United States, Canada, and Australia--will interview about 2,000 lowland Lao in Ban Na Pho camp, out of a current population of 22,000. Of the 11,000 Vietnamese in "Section C" in the Phanat Nikhom refugee camp, only about 2,000 will be interviewed for resettlement, according to Virachai. "We look to the embassies for more help in resettlement," he said.

A somewhat more optimistic view was suggested by Gerald Walzer, UNHCR representative in Thailand. Walzer noted that for the first time since early 1984 the overall number of refugees in Thailand has started to decline. From March 1984 to midyear 1986, the population of refugees in UNHCR-assisted camps in Thailand was around 130,000, Walzer said. As of June 30, 1987, the number stood at 118,400. "We witnessed some measurable progress for the first time in the three years," said Walzer, "though in retrospect, developments have been anything but constant and linear."

More than 27,000 Indochinese refugees left Thailand for other countries during 1986, according to UNHCR figures, and about

28,000 are expected to do so in 1987. "We remain optimistic that the downward trend in the overall caseload will continue for the remainder of the year," Walzer said, although he noted the "sharp rise" in Vietnamese boat refugee arrivals and a "renewed search for asylum on the part of hilltribe Laotians."

In his speech at the CCSDPT conference, Walzer called for renewed attention to the large number of "longstayers" in refugee camps throughout Southeast Asia, noting that more than 50 percent of the current Indochinese refugee population has spent four years or more in camps. "Think of the thousands of children born and growing up to know nothing but camp life," Walzer said. "I was recently very touched when told by a relief worker that in some camps children do not have the ability to recognize bright colors, have never seen cattle or water buffaloes, and are familiar with only three or four varieties of trees--all symptomatic of the dreary life in camp."

Vietnamese Arrivals in Thailand Nearly Double the Camp Population More than 6,600 Vietnamese boat refugees have arrived in Thailand in the first nine months of FY 87, the highest figures in five years, bringing the camp population up to 11,000. Since last year, all Vietnamese boat arrivals have been housed in Phanat Nikhom in a restricted area known as "Section C," which is surrounded by a corrugated tin fence and barbed wire. With all the new arrivals, Section C is now the largest Vietnamese refugee camp in Southeast Asia. It was built to hold no more than 7,000 people.

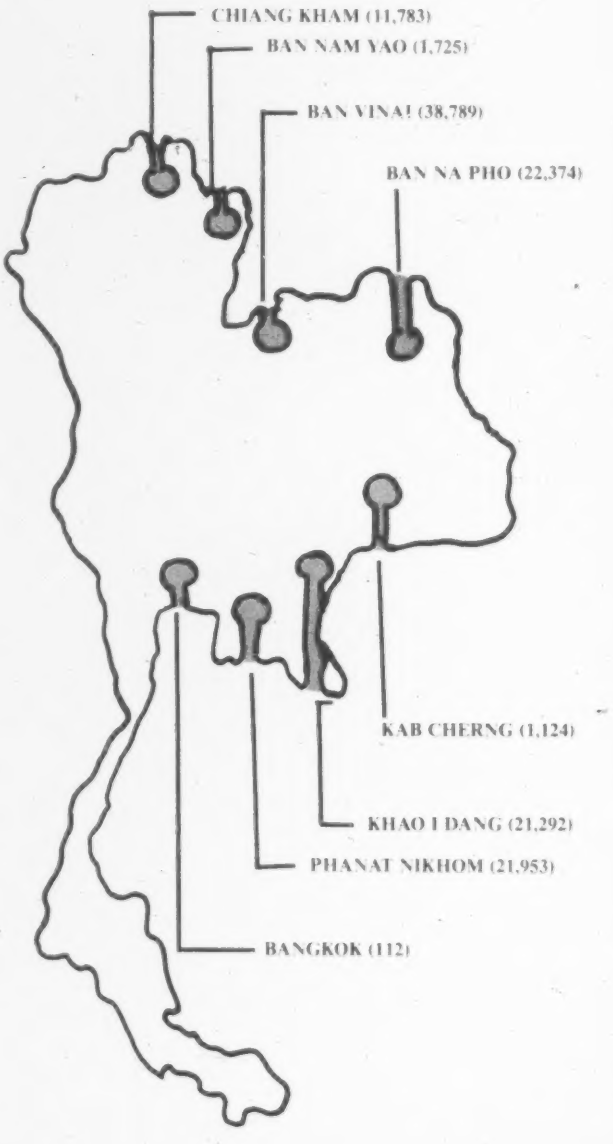
Some voluntary agency staff who work in Section C say the overcrowding is "pretty bad," with 25 or more people sharing housing designed for a maximum of 17. That is not the real problem, others say. "It's not that they're overcrowded," said David Loveridge, a clinical psychologist working with UNHCR. "It's that they're hemmed in, and they feel there is no escape."

Most of the Vietnamese in Section C have been there two or three years, according to Barbara Lewis, a psychiatric nurse working with the American Refugee Committee. She sees "a lot of deep depression, a feeling that there isn't much sense in doing anything," she said, particularly among people who have lost hope of being resettled. As people spend more and more time in the camp, said Loveridge, "they begin to lose touch with the past and the future. They begin to lose touch with themselves."

"With resettlement criteria becoming more rigid, there is a growing concern that the Vietnamese won't qualify," a UNHCR source told Refugee Reports. Speculating on possible Thai policy changes regarding

INDOCHINESE REFUGEES IN UNHCR-ASSISTED CAMPS IN THAILAND

(As of June 1987)



Vietnamese refugees, he said that "something may happen in the near term," particularly if arrivals continue at their recently high rates. Some observers say there has been talk within the Thai government about the possibility of setting up a screening program for Vietnamese.

The percentage of Vietnamese approved by the Immigration and Naturalization Service (INS) for admission to the United States has declined in the last year. Since June 1983, INS has approved an average of 89 percent of the Vietnamese cases presented for interviewing. In FY 87, the INS approval rate for Vietnamese refugees in Thailand is down to about 70 percent as of July 31.

Laotians Still the Largest Group in Thailand Highland and lowland Lao comprise by far the largest refugee group in Thailand, numbering more than 76,000 people in four camps along the Thai-Lao border. According to State Department figures, 6,800 Laotians--in roughly equal numbers of highlanders and lowlanders--entered Thailand in the first nine months of FY 87. The overall camp population will decrease, however, as almost 12,000 Laotians will be resettled in the United States this fiscal year, including at least 8,000 Hmong, the predominant Laotian hilltribe group in Thailand.

Despite these reductions and assurances from the United States that resettlement of Laotians will continue next year, the Thai government is clearly worried about the large numbers of Laotians in Thailand, as well as the numbers who may be on their way. MOI official Virachai said he had received a report that 4,000 Hmong were waiting on the Lao side of the Mekong River for an opportunity to cross into Thailand.

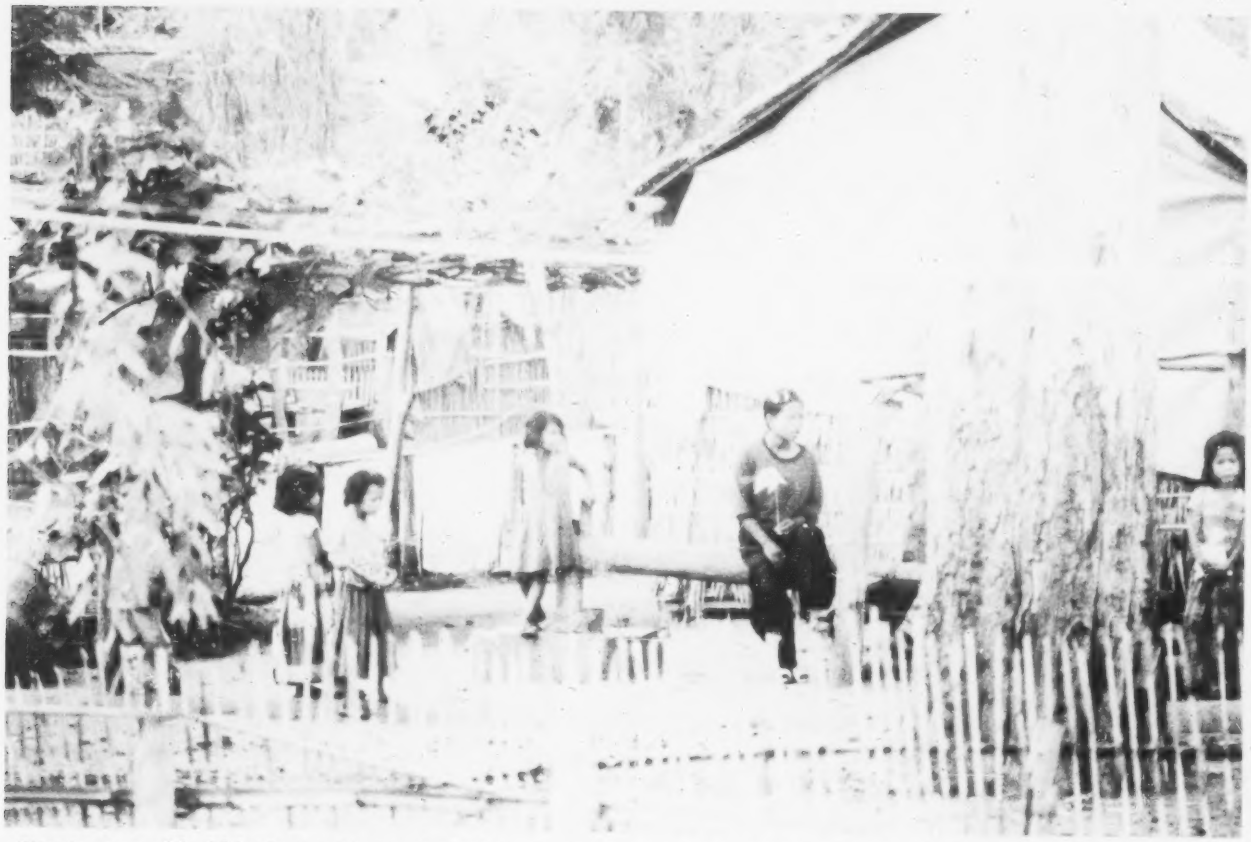
In July 1985, the Thai government, with the cooperation of UNHCR, established a system to screen newly arriving Laotians in order to distinguish bona fide refugees from economic migrants. Now, two years later, 2,254 people have been screened out as economic migrants, according to NSC secretary general Suwit. "Originally, the Laotian government agreed with UNHCR to take back these people," said Suwit, but the agreement subsequently collapsed. Meanwhile, most of the group waits in a detention center near Nong Khai for a decision on their fate.

"The screening measure is for Laotians who report to the Thai authorities," Suwit pointed out, "and is not applied to the resistance forces and those who are smuggled into the holding centers and/or who do not report to the authorities. The latter category are considered as illegal immigrants." Most of the Hmong arrivals fall into the second category, according to refugee program sources in Thailand, though they point out that many Hmong who have reported to Thai border authorities have been refused access to the screening program. Some Hmong have even been forced back into Laos.

The screening program suffers from other problems in addition to the fact that it may discriminate against Hmong and that the screened-out cases still are sitting in limbo after two years. Chulalongkorn University law professor Vitit suggests that the screening criteria, and ultimately resettlement criteria as well, favor applicants with family links overseas, former employees of foreign embassies, and former soldiers of a friendly regime, "rather than assessing the persecution characteristic," which he says should be the "priority."

Ironically, the very success that the Hmong have had in gaining admission to the United States may be hindering their access to the screening program. Since 1983, 99 percent of Hmong interviewed for U.S. resettlement have been approved, according to State Department figures. Thai officials have conceded that most Hmong would meet screening criteria as well, based on their family relationships overseas or previous involvement as U.S. allies during the Indochina War, according to a report in The Nation, an English-language newspaper published in Bangkok. But observers suggest that Thailand is extremely reluctant to add to its Hmong refugee population, which now stands at 53,000, fearing that access to the screening program would draw thousands more highlanders across the border. And even though U.S. approval rates remain very high for the Hmong, Thai officials say there is no guarantee that the Hmong will opt for resettlement or that the United States will continue to admit them in significant numbers.

In contrast to the Hmong, the overall INS approval rate for lowland Lao since 1983 is 77 percent. In FY 87, the approval rate has fallen to 61 percent.



There are 48,000 Cambodians in Site B (also called Greenhill), a border camp for followers of Prince Norodom Sihanouk. *USCR/Court Robinson*

Thailand Seeks to Discourage Laotian Asylum-Seekers Thai authorities may be seeking other ways to discourage Laotians from seeking asylum. On August 30, the Thai embassy in Washington issued a statement that the Ministry of Interior will close Ban Na Pho for resettlement interviews after the United States has completed its processing. No fixed date was set for the closure but U.S. interviewing was expected to be completed "by the end of August," according to the statement. "Even after closure, access by embassies will still be possible by specific request," it continued. "It is also hoped that the U.S. will make it clear to the remaining residents that they do not stand a chance of ever being resettled, especially in the U.S., and maybe they will begin considering voluntarily returning to Laos," the statement said.

Local MOI officials in Ban Vinai camp were quoted in June as saying they might erect a barbed-wire fence around the camp "to discourage the Hmong from sneaking in rather than from going out." Ban Vinai has an official population of 39,000 highlanders (primarily Hmong) but anywhere from 2,000 to 10,000 "unregistered" Hmong may be living there as well.

On June 24, the 96 refugee building leaders in Chiang Kham camp, which houses about 12,000 highland Lao, sent a signed letter to UNHCR, the Ministry of the Interior, and several embassies of resettlement countries accusing the camp commander of corruption and brutality and calling for his removal. The specific charges included detention of young children, mistreatment of prisoners, confiscation and sale of donated goods, and extortion. "We demand to know if his actions are in line with the Ministry of Interior's refugee policy," the letter said.

Thai Reiterate Plans to Empty Khao I Dang Since 1975, more than 210,000 Cambodian refugees have left Thailand to resettle in other countries. On December 31, 1986, the

Thai government officially closed Khao I Dang, the last remaining UNHCR-assisted camp for Cambodian refugees in Thailand. Since that time, Thai authorities have removed about 400 "illegal" residents from the camp and relocated them to encampments on the Thai-Cambodian border, temporary home for more than 250,000 Cambodian "displaced persons." "The removal of other Kampucheans [an alternative name for Cambodians] will follow," Suwit announced at the CCSDPT meeting. "I would like to make it clear that the Royal Thai Government will move the displaced persons from Khao I Dang to other appropriate border areas as planned," he said, and called for the cooperation of UNHCR and the UN Border Relief Operation (UNBRO) "in assisting in the relocation."

"Khao I Dang serves as a safety valve for protection," UNHCR field representative Walzer told Refugee Reports. "We have always maintained that nobody should leave Khao I Dang involuntarily. We feel a responsibility for these people."

There are still many unresolved questions as to what UNHCR responsibility means for Khao I Dang residents, whom it includes, and how it will be affected by a move to the border. Of the 21,000 Cambodians still in Khao I Dang, Thai officials have declared that some 14,500 are allowed to apply for resettlement in other countries. These are the so-called old and new "KD" card holders, who entered the camp prior to August 1984 (new KDs were formerly called "family card holders," or FCs). Most of them have already been rejected by one or more resettlement countries, including the United States.

An additional 7,000 Cambodians in Khao I Dang entered the camp some time between August 1984 and October 1985. These "ration card holders" or RCs, are considered legal residents of the camp and are eligible to receive food rations and other services. But the Thai government has not granted this group full refugee status, and has allowed only limited resettlement processing of RCs. UNHCR figures indicate that, since January 1986, 141 ration card holders have left Khao I Dang for resettlement, 43 of them to the United States.

The UN secretary general has indicated to Thailand that if the Khao I Dang population is moved to the border, their status as UNHCR-recognized refugees should continue, according to a senior refugee official in Bangkok. A tentative agreement has been reached for the KD group, the official told Refugee Reports, but the status of the ration card holders is still "under dispute."

In July, the State Department authorized resettlement interviewing for RCs with ties to the United States (processing priorities P-1 to P-5). Thailand, thus far, has not given its permission for this to happen. "The Thais will give access to the RCs only if there is a review of the KDs," said a UNHCR official in Thailand.

Even if the ration card holders ultimately are interviewed, the official said that he thought only two or three thousand would be resettled, given that "at least 50 percent will be rejected." INS approval rates for Cambodians in FY 87 have fluctuated between 50 and 65 percent.

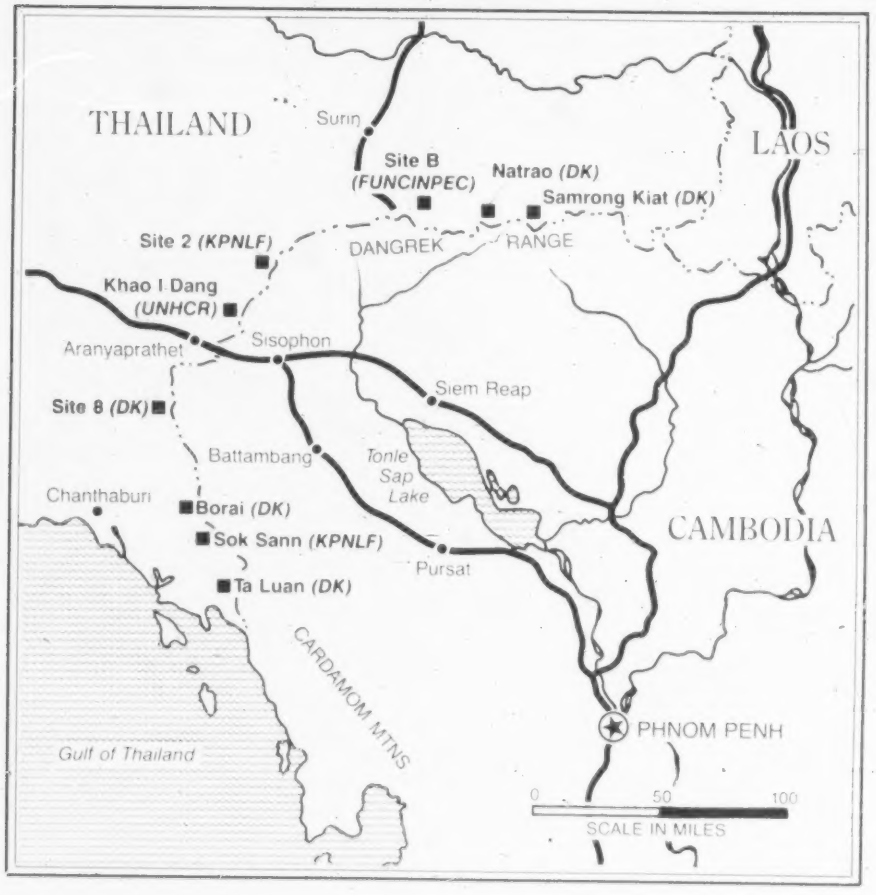
No Relief in Sight for Border Cambodians

The need for improved protection and expanded educational programs for the 250,000 "displaced persons" on the Thai-Cambodian border was cited by two senior international aid officials at the CCSDPT conference. "There are still abuses of human rights at the evacuation sites," said S.A.M.S. Kibria, the special representative of the UN secretary general for the Coordination of Kampuchean Humanitarian Assistance Programs. "There are still too many crimes which could be prevented." Kibria noted that "a great deal of effort" has been expended by both the International Committee of the Red Cross (ICRC) and UNBRO, but "the results have not met our goals for protection."

Indeed, according to several knowledgeable sources, on the afternoon of the CCSDPT meeting, a pregnant Cambodian woman and her disabled husband were killed by a drunken Thai ranger outside of Site 2, a border camp of more than 150,000 people. An ICRC field officer near the scene radioed for assistance from Task Force 80, the Thai paramilitary unit responsible for security in the border camps, but help was slow in arriving and the ranger escaped.

The incident reveals just one of the many faces of danger for Cambodians at the border. A February 1987 report by the New York-based Lawyers Committee for Human Rights documents numerous accounts of violence suffered by Cambodian civilians at the hands of Vietnamese soldiers, Cambodian bandits, Thai rangers, and Cambodian

MAP OF THAI-CAMBODIAN BORDER REGION



Camps holding displaced Cambodians, under the control of:

DK--Democratic Kampuchea (Khmer Rouge)
FUNCINPEC--National United Front for an Independent, Neutral, Peaceful and Cooperative Cambodia
KPNLF--Khmer People's National Liberation Front
UNHCR--United Nations High Commissioner for Refugees

Reprinted from Seeking Shelter: Cambodians in Thailand, Lawyers Committee for Human Rights.
Map by Pete Lukic.

guerrilla forces. Security is a particular problem at Site 2, located less than one mile from the border. "Heavily populated, overcrowded, dominated as much by black marketeers as the resistance..., Site 2, with its poor land and lack of water epitomizes the hopelessness and futility of the border populations," wrote Tony Jackson in a July report for the British relief agency, Oxfam.

This growing sense of futility has given rise to yet another kind of protection problem. Urs Boegli, head of the ICPC delegation in Thailand, told the CCSDPT meeting that "irrational violence fuelled by growing despair has become a day to day affair, a reality from which a number of Kampucheans have already escaped through suicide."

Relief agency workers in Site 2 said that there were 9 suicide attempts in July alone, rates of induced abortions are increasing, child abuse is more and more frequent, and that domestic violence and rape are common. In a recent socio-economic survey of three Cambodian border camps, Dr. Josephine Peynell of the Oxford Refugee Studies Program said that this kind of violence is the consequence of "the physical and economic deprivation in the camps, the lack of freedom, the level of violence, the overcrowding, the fear of attacks and conflict, and the overwhelming uncertainty as to what the future holds--all compounded by the horror of the Pol Pot era."

In order to make the border camps "more humane and less senseless," Boegli said, "It remains our responsibility to examine over and over again how we can further improve

protection, how we can provide more education, how we can promote...other elements that have traditionally helped to keep a Kampuchean society healthy and humane." Boegli also recommended moving Site 2 from its current "precarious" location and "splitting it again into several more manageable and more viable entities."

Legal Status of Border Cambodians "Urgently Needs Defining" Most of the 250,000 "displaced persons" on the border have been on Thai soil since early 1985 when a Vietnamese dry season offensive destroyed many of the camps on the Cambodian side of the border, forcing tens of thousands to flee westward into Thailand. "Now that the Cambodians have been in Thailand proper for almost two years, their legal status urgently needs defining," Jackson said. Thailand continues to call them "displaced persons," a term normally used for populations displaced inside their own country. Observers say this is in part a holdover from previous years when the people actually were in camps in Cambodian territory, but there is a political reason as well. Cambodian "displaced persons" are recognized by Thailand and the United Nations as being in the care and control of the Coalition Government of Democratic Kampuchea (CGDK), a government-in-exile that opposes the Vietnamese occupation of Cambodia.

The CGDK is composed of three factions, each of which maintains its own fighting force and administers its own primarily civilian encampments (see map on page 7). Two of the factions are non-communist and the third is the Khmer Rouge, a communist regime responsible for the deaths of at least one million Cambodians during its four year reign of terror from 1975 to 1978.

Jackson argues that the current arrangement provides too little protection for the civilians on the border. "There is a clear case for bringing them under the protection mandate of UNHCR," he said. Further recommendations included moving all civilian camps--the largest three being Site 2, Site B, and Site 8--a safe distance from the border and establishing a system of 24-hour-a-day protection. UNHCR "is probably the most appropriate UN body for this job," said Jackson.

Update

° The Administration has notified Congress that it will request an FY 88 refugee admissions ceiling of 72,500 at the upcoming consultations in September. This will represent an increase of 2,500 over last year's ceiling. At the same time, however, the administration's proposed budget for FY 88 is based on 55,000 projected refugee admissions. The ceiling will again include an "unallocated reserve" of 4,000.

The current year's ceilings (revised as of midyear consultations in June) and the proposed FY 88 ceilings by region are:

Region	FY 87 Ceiling	FY 88 Ceiling
Africa	2,000	3,000
East Asia		
First Asylum	32,000	29,500
ODP	8,500	8,500
East. Eur./USSR	12,300	15,000
Lat. Am./Carib.	1,000	3,500
Near East/S. Asia	10,200	9,000
Reserve	4,000	4,000
	70,000	72,500

° A total of 742 Guatemalans have returned from Mexico between January and June 1987, according to the United Nations High Commissioner for Refugees (UNHCR)--more than twice the figure for all of 1986. However, dozens of Guatemalan refugees repatriating from Mexico have been detained or prevented from returning to their home villages by Guatemala's army in recent months, according to the Christian Science Monitor.

The incidents, all occuring in Huehuetenango Department, scene of army raids which killed 8,000 persons between 1981 and 1983, reportedly include the following:

° On January 12, several men from a group of 49 refugees attempting a return to the village of Nubila, were arrested and detained for 12 days at the army base in Huehuetenango;

° On February 2, 21 families trying to return to their village of Ojo de Agua, were instead required to live for several

months in Chacaj, a "model village" built by the army.

° On March 19, 120 of 351 refugees repatriating to villages in the Ixcan region, were resettled in the area by the army on vacant land adjacent to a military road. According to the report, the refugees' land titles were given by the government to landless peasants from other parts of Guatemala.

° Rep. Joe Moakley (D-Mass.) has called for a formal inquiry by the Immigration and Naturalization Service (INS) into statements by INS District Director Harold Ezell published in the Los Angeles Times that he gave "no credence" to reports of Salvadoran death squad activities in Los Angeles, and considered reports of death threats part of an "orchestrated PR campaign" by the "dead sanctuary movement." (for a report on the allegations, see Refugee Reports, Vol. VIII, No. 8.)

In a letter to INS Commissioner Alan C. Nelson, Moakley threatened to call a Congressional investigation to determine whether Ezell had any information showing that religious sanctuary groups had filed fraudulent crime reports, which is a violation of state and federal law. "I will defer any congressional investigation of Mr. Ezell's conduct for a reasonable period awaiting your response," the letter stated.

The Times reported Ezell as saying, "I don't see any problem in the congression asking for an investigation and I am happy to cooperate."

° Persons who applied for U.S. asylum before January 1, 1982, and whose applications were denied or remained undecided, will be considered as being in unlawful status for purposes of eligibility for legalization benefits under the Immigration Reform and Control Act, according to an August 19, 1987 memorandum from INS Deputy Commissioner Mark W. Everson to INS regional offices. A legalization applicant who previously was granted asylum should file for adjustment under section 209, the memo said.

° On September 7 and 8, U.S. and Vietnamese officials held talks in Hanoi on the resumption of interviews for Amerasians wishing to emigrate to America, according to a State Department source. There are an estimated 8,000 to 10,000 Amerasians--children of American GI fathers and Vietnamese mothers--still in Vietnam. About 3,750 Amerasians have migrated to the United States through the Orderly Departure Program (ODP), along with 5,400 of their close family members.

Interviewing of Amerasians was suspended in January 1986 when Vietnam halted interviews of all new applicants for ODP. Bruce Beardsley, counselor for refugee and migration affairs at the U.S. embassy in Thailand and director of ODP, led the American delegation.

In a related story, the Amerasian Homecoming Act, introduced in Congress on August 6 (see Refugee Reports, Vol. VIII, No. 8), has been endorsed by a Vietnamese official. The bill was called a "positive and significant step to solve the Amerasian question," by Nguyen Dang Quang, first secretary for the Vietnamese mission to the United Nations. He told the Army Times, "We do not agree with the United States government when they let the children depart from Vietnam as refugees."

The State Department has not commented on the legislation.

° Two groups of Vietnamese from China, totalling 855 people, were returned from Hong Kong on August 22 and 26, according to an article in the Far Eastern Economic Review. More than 7,000 Vietnamese refugees who were originally resettled on cooperative farms in China have arrived in Hong Kong since June, citing rumors of resettlement opportunities in the West. Hong Kong and Guangdong officials have held talks to identify measures of curbing further outflows. Since 1978, China has resettled more than 280,000 refugees--primarily ethnic Chinese who fled overland from Vietnam in 1980.

° In the August 28 Federal Register, the Centers for Disease Control (CDC) of the U.S. Public Health Service published a final rule substituting human immunodeficiency virus (HIV) infection for acquired immunodeficiency syndrome (AIDS) on the list of dangerous contagious diseases that constitute grounds for denial of a visa. As such, refugees, immigrants, and applicants for permanent resident status

(including legalization applicants) will be considered inadmissible to the United States if they are diagnosed as having HIV infection.

Testing for HIV infection will be required as of December 1, 1987. Any alien who tests positive will be excluded unless he or she obtains a waiver from the attorney general.

In July, AIDS was added to the list of excludable medical conditions that includes infectious leprosy, active tuberculosis, and chancroid, as well as infectious syphilis and other sexually transmitted diseases. The substitution of HIV infection for AIDS is warranted, according to CDC, because "all persons with AIDS have HIV infection," and "any person infected with HIV, with or without clinical manifestations of AIDS, is assumed to be capable transmitting the virus."

CDC noted that the majority of the 75 organizations commenting on the rule were opposed to the revision. "The potential effects of testing refugees in camps in first-asylum countries and the difficulties posed by some admissions programs, such as those for Soviet Jews, Vietnamese, and Cuban political prisoners, are of particular concern," CDC acknowledged. It promised to work closely with the Department of State to implement the testing program "in a way that will protect both the affected refugees and U.S. foreign and humanitarian policy interests."

The State Department has estimated that HIV screening of refugees overseas will cost $4 million per year.

° While emigration of Soviet Jews is continuing at a pace of about 800 per month (as opposed to 914 for all of 1986), including the exit of prominent refuseniks such as Iosef Begun, there has also been a noteworthy increase in the numbers of other ethnic minorities allowed to emigrate.

In August, 1,614 ethnic Germans were issued exit permits--an all-time record, according to the Christian Science Monitor. So far this year, the Monitor reports, 7,127 Germans have received exit permission, as opposed to 397 during the first eight months of 1986. In July, 301 Armenians were also granted permission to leave. Last year, about 15 per month were granted exit permission.

° A Vietnamese-American editor and publisher, Tap Van Pham, was killed August 9 in Garden Grove, California when his office was destroyed by an arson fire. A group calling itself the Vietnamese Party to Exterminate the Communists and Restore the Nation claimed credit for the attack. In a letter to two other Vietnamese language newspapers, the group said that the attack was prompted because Pham's weekly magazine, Mai, carried ads from three Canadian companies that ship goods to relatives in Vietnam from Vietnamese refugees in North America.

Recent Developments

INS PROPOSES NEW ASYLUM DETERMINATION REGULATIONS

A new system that would take asylum decisions out of the hands of immigration judges and substitute "nonadversarial" hearings with INS asylum officers has been proposed by the Immigration and Naturalization Service.

The proposed asylum regulations, published in the August 28 Federal Register, would replace interim regulations under which asylum decisions have been made since 1980. They would place authority for asylum and withholding deportation with a new creation in the INS bureaucracy--asylum officers--who would operate in the INS Office of Refugee, Asylum, and Parole. Under the existing system, asylum applicants are guaranteed hearings before immigration judges. In 1983, deportation proceedings were taken away from the INS and placed before immigration judges operating in a separate agency, the Office of the Chief Immigration Judge, Executive Office for Immigration Review. The new regulations would place exclusive jurisdiction for asylum and withholding of deportation within the INS, and would make the decisions of asylum officers binding upon immigration judges in exclusion and deportation cases in which the alien applies for asylum.

Written comments on the proposed regulations must be submitted to the INS on or before October 27.

"Reasonable Possibility" of Persecution

Proposed as Basis for Asylum Eligibility

The proposed regulation's burden of proof for establishing a "well-founded fear of persecution" is based on "a reasonable possibility of the applicant actually suffering such persecution if he were to return."

The proposed regulations also specify the burden of proof applicants must meet to establish their eligibility for asylum. The regulations say that the asylum officer "shall not require the applicant to provide evidence that he would be singled out individually for persecution if he establishes that there is a pattern or practice in his country of nationality or last habitual residence of persecution of groups or categories of persons similarly situated to the applicant on account of race, religion, nationality, membership in a particular social group, or political opinion."

The language requiring a "reasonable possibility" of persecution differs from the way the Board of Immigration Appeals (BIA) has interpreted the "well-founded fear" asylum standard established by the Supreme Court in the Cardoza-Fonseca ruling. The BIA recently held that the test to apply would be whether a "reasonable person" in similar circumstances would have a fear of persecution (see Refugee Reports, Vol. VIII, No. 7). The BIA continues to assess the basis of a person's subjective fear, whereas the proposed rule would apply an objective standard independent of the person's fear. Carolyn Waller, director of the Alien Rights Project of the Washington Lawyers' Committee for Civil Rights under Law, said, "The proposed 'reasonable possibility' standard could perhaps be statistically tabulated." In Cardoza-Fonseca, on the other hand, the Supreme Court stated that the eligibility standard "obviously ...turn[s] to some extent on the subjective mental state of the alien." (See Refugee Reports, Vol. VIII, No. 3.)

The regulations also call for giving "due consideration" to evidence that a country persecutes citizens "if they leave without authorization or seek asylum in another country."

Immigration Lawyers Criticize Proposed Regulations The proposed regulations were sharply criticized by the American Immigration Lawyers Association (AILA), a 2,600 member association of immigration lawyers affiliated with the American Bar Association. AILA President Ira Kurzban called the regulations "a blatant violation of due process and contrary to Congress' intent under the Refugee Act of 1980 to ensure fair, impartial, and equitable treatment to all refugees irrespective of their country of flight."

Citing the INS's low approval rates for Salvadoran, Guatemalan, and Haitian asylum seekers, Kurzban said, "These regulations are a transparent attempt to reinstitute the ideological bias in asylum practices that existed prior to the Refugee Act of 1980 by placing in the hands of the prosecuting agency the sole right to determine asylum in the United States." He added, "Under these regulations, the current administration will have an unfettered hand to continue its policy and biases against persons seeking asylum from El Salvador and other non-communist countries."

AILA points out that by putting asylum decisions in the hands of the INS, the proposed regulations create "an irreconcilable conflict of interest," because that same agency is responsible for arresting and deporting asylum applicants.

Non-Adversarial Hearings Versus the Right to Due Process The immigration law weekly, Interpreter Releases, noted that "in light of the important stakes involved, it is open to question whether this proposed procedure would survive a due process challenge."

Arthur Helton, director of the Political Asylum Project of the Lawyers Committee for Human Rights, told Refugee Reports that the nonadversarial hearings would have the effect of denying due process. "There is no right to counsel in the regulations," he said. "You have the prosecutor and judge in one person."

Helton said, "Because the hearings would not take place before a neutral arbiter, asylum applicants would be prevented from establishing a suitable record for appeal."

But the idea of nonadversial hearings before trained INS asylum officers has its defenders as well. Carolyn Waller said that the fairness of the new system would depend largely on the training of the new asylum officers. "It is a step in the

right direction."

Waller suggested that the UN High Commissioner for Refugees (UNHCR) be made part of the training for asylum officers and that information on asylum cases, which the regulations say should principally come from the Department of State, should be required from the UNHCR as well.

Waller welcomes the concept of non-adversial hearings. "Often we hear the trial attorney hammering away, attacking the credibility of the applicant," she said. "Abusive cross examination becomes a form of persecution in itself. It should be eliminated."

Waller maintains that the current system in which immigration judges operate outside of INS has not made the process any more fair for the asylum applicants. "I'm not sure that [having the Executive Office of Immigration Review] substantially has made a difference."

Helton said that immigration judges should not be the measure. "I'm not satisfied with the current system either." He said that he believes asylum adjudication should take place not only outside of the INS, but outside of the Justice Department altogether. "A neutral examiner," he said, "would address the main problem."

BIA BACKS OFF DENYING ASYLUM BECAUSE ALIENS CIRCUMVENT ORDERLY PROCEDURES

The federal Board of Immigration Appeals (BIA) has recently stated that it will no longer automatically deny asylum because the asylum seeker circumvented orderly refugee procedures, including the use of fraudulent documents.

The BIA has jurisdiction to hear appeals on asylum and deportation cases from immigration judges and Immigration and Naturalization Service (INS) district directors.

In an August 6 unpublished opinion, Matter of Pula, the BIA liberalized its earlier ruling in Matter of Salim that had held, "This Board finds the fraudulent avoidance of the orderly refugee procedures that this country has established is an extremely adverse factor which can only be overcome with the most unusual showing of countervailing equities."

The new ruling concedes that in the Matter of Salim it placed "too much emphasis" on the circumvention of orderly refugee procedures. The new ruling states, "This circumvention is a serious adverse factor, but it should not be considered in such a way that the practical effect is to deny relief in virtually all cases."

The BIA held that, "This factor is only one of a number of factors which should be balanced in exercising discretion, and the weight accorded to this fact may vary depending on the facts of the particular case."

Other factors that the BIA says should be taken into consideration include whether orderly refugee procedures were in fact available to the asylum seeker, whether he sought asylum elsewhere, and whether he has family or other personal ties to the United States. The BIA also notes that other humanitarian considerations such as "tender age or poor health" may also be relevant.

In light of the Supreme Court's Cardoza-Fonseca decision, the BIA shows particular concern with the possibility that a person could meet the more liberal "well-founded fear of persecution" standard for being granted asylum, but be denied asylum as a matter of discretion for circumventing orderly procedures, and then face deportation for failure to meet the tougher "clear probability of persecution" standard for withholding deportation. The BIA warns that the consequences of such a denial could be "unusually harsh" and goes on to state that "the danger of persecution should generally outweigh all but the most egregious of adverse factors."

RECORD NUMBER OF HAITIANS INTERDICTED

The largest number of Haitians ever intercepted on a single boat were picked up by the U.S. Coast Guard on August 4 in the Atlantic Ocean about 350 miles southeast of Miami.

The 339 passengers were in imminent danger of being drowned, according to the Coast Guard, which rescued them from their 65-foot shrimp boat before it sank.

All of the Haitians on board the vessel were returned to Haiti. Despite the overthrow of the Duvalier government in Haiti, Haitians continue to leave that country by boat, and advocates see no reasons for their numbers to decline.

Haitian boat people aboard the U.S. Coast Guard ship Steadfast as it docks in Port-au-Prince, Haiti August 4. Theu were among the 339 people interdicted on August 3, the largest boatload of people ever caught attempting to cross to the United States.
AP/J.Scott Applewhite

Those aboard this vessel were picked up as part of the Haitian Migrant Interdiction Operation, a program which has been in effect since October 1981 to catch Haitians while still in international waters and return them directly to their homeland. According to the Coast Guard, the Haitians are interviewed by an INS examiner to determine whether they have either documentation for entering the United States legally or a basis for establishing an asylum claim based on a well-founded fear of persecution if returned to Haiti.

From the time the program started in 1981 until September 4, 1987, only 2 persons have been determined to have a valid asylum claim out of the 12,295 interdicted.

According to a Coast Guard official, the two refugees who were granted asylum had been active in resistance to Jean-Claude Duvalier and were shot at by local militia as they were making their escape.

About 1,000 of those interdicted were not directly returned because they were apprehended within three miles of the American shore, legally within U.S. territorial jurisdiction. Another 1,064 persons have been interdicted from other nationalities, including 160 Cubans, various other Caribbean nationalities, and people from such far-flung nations as India, Bangladesh, China, and Sri Lanka.

Caribbean Journey Unpredictable, Dangerous

While the recently interdicted shrimper with 339 people on board was the largest load, overcrowded boats are becoming increasingly common. In late July and early September two other boats with more than 200 Haitians aboard were intercepted. "No 45 foot sailboat in the world is safe for 200 people," said Coast Guard Lt. Cmdr. Jim Simpson.

Simpson told Refugee Reports that it is "plausible" that many boats roll over and sink in the middle of the night. He said that aircraft will spot boats at nightfall and send a cutter, but that they frequently are never located. In one instance, Simpson said, a boat capsized as the Coast Guard was boarding it, resulting in a dozen deaths.

Simpson said that the Caribbean seas are especially unpredictable. "It is common to have beautiful sunny weather when you leave and a short distance away localized heavy thunderstorms with 40 mile-per-hour winds and 15 foot seas." He said that many of the Haitians are rural people with no ocean experience. "They are crammed in horrible conditions with inadequate food, water, and sanitation."

An article in the U.S. Naval Institute's Proceedings by Lt. Cmdr. George D. Bond cited INS and Coast Guard estimates that "50 percent of the sailboats departing Haiti never land, capsizing or foundering with total loss of life."

Why the Increase in Haitian Boat People?

Simpson said that a great deal of effort has been spent trying to predict Haitian boat flows, based on weather conditions, availability of boats, economic and political conditions, and month of departure. "The pattern is that there is no pattern," he concludes. He said that there was a decrease in boat departures in the six months following Duvalier's departure, but then "they jumped again."

"The linkage is very simple," said Michael Hooper of the Coalition for Haitian Refugees. "It can be traced to army killings in rural areas."

"The reasons for leaving are no different than for those who left earlier," said Fritz Longchamps, director of the Washington Office on Haiti. Longchamps cited a deteriorating political and economic situation, including the resurgence of the Tonton Macoutes, the security force under the Duvaliers, responsible for many human rights abuses directed against the rural population and political dissidents. "They have dressed them up now to be part of the army," said Gerard Jean-Juste, executive director of the Haitian Refugee Center in Miami.

A lead article in the September 12 issue of The Nation, datelined Port-au-Prince, confirms that the army has killed at least 32 people since the end of June, but adds, "Outside the capital, the government's measures are generally less direct; it prefers to let local power elites settle scores without interference." The article reports on an incident in July in the northwestern town of Jean-Rabel in which one group of peasants advocating land reform was attacked by another peasant group supported by the local landed gentry. At least 225 of the land-reform peasants were killed, many by machete, according to The Nation.

"Many of us are very bitter, very disappointed," said Jean-Juste of the political situation since the departure of Duvalier. "We see it as Duvalierism without Duvalier."

Jean-Juste accuses the United States of treating Haitians interdicted at sea differently from Cubans and other nationalities. Haitians, he says, face "kangaroo courts at sea," and, he expresses the belief, "racism is on top of it."

Haitians Now Flee the Bahamas as Well

Hooper predicts that an increasing number of Haitian boat people will actually be "secondary refugees from the Bahamas." According to Hooper, the Bahamian government has said that it will expel some 22,000 undocumented Haitians by mid-1988. "The situation has been brewing for years," he said.

An August 16 article by a Houston Post reporter in the Bahamas outlines human rights abuses directed against the Haitian population by the Bahamian government. Allegations cited include mass arrests of Haitians under non-specific warrants, taking into custody even legally resident Haitians; confining Haitian detainees in unsanitary, crowded conditions and denying them proper medical treatment; routinely denying bail to Haitians arrested on immigration violations; imprisoning Haitians after they serve their sentences; and two instances of refusing to help Haitian boat people in distress aboard sea-wrecked vessels in Bahamian waters.

Resources

EYEWITNESS REPORTS ON AFGHAN WAR

In 1985, Jan Goodwin, executive editor of the Ladies Home Journal, and a former

war-correspondent, spent three months travelling with Afghan Mujahideen guerrillas, and has written an account of the violence in Afghanistan that has produced more than five million refugees.

Her book, Caught in the Crossfire, is a narrative of her observations in extensive travels not only in the Afghan countryside with the Mujahideen, but also in separate travels to Kabul and the Soviet Union to see the combatants on the other side. Of Kabul she writes, "There is a desperate housing shortage...where many internal refugee families find themselves living with relatives as many as fifteen to a three-square-yard room." The population of Kabul, she reports, has risen from 750,000 before the Soviet invasion to 2 million.

In rural Afghanistan she paints a picture of fear and desolation. "As I traveled through Afghanistan," she says, "I became accustomed to the sight of bloated corpses of donkeys or camels that had died after being raked with machine gun fire from the air. Nearly invariably would be the stone-covered burial grounds of the Afghan graves." Slow-moving refugee caravans became easy targets for helicopter gunships.

The author also shares her impressions of Afghan refugee camps in Pakistan. About an hour from Peshawar is the Munda camp. "To call it a refugee camp is a misnomer," she observes, "it is a long way from being a place of refuge."

She says, "In Munda, the six hundred families who had fled the Laghman massacres found they had exchanged one hell for another." Goodwin describes row after row of meager shelters, dust, silence, and hunger.

Many refugees, she reports, are unregistered and go without assistance. Many who are registered and who should be receiving rations and a cash allowance are often also left empty-handed. "In reality," she notes, "[the cash allowance] is rarely received."

Goodwin says the hardships the refugees experience have more to do with corruption and incompetence than with a lack of resources. She quotes an official of the UN High Commissioner for Refugees saying, "This may surprise you, but because of lack of proper implementation, we have never been able to spend all the funds allotted for the Afghan refugees. It's a crazy situation. In the North-West Frontier Province last year 11 percent of our budget had to go unspent because the Pakistani authorities weren't implementing the programs properly. In Baluchistan, which has one-fifth of the refugees, the figure was tragically much higher--50 percent. We've had wheat spoil just because it sits in a depot too long before it is delivered to the camps."

Caught in the Crossfire is available for $18.96, cloth, from E.P. Dutton Publishers, 2 Park Ave., New York, NY 10016. It can be ordered through local bookstores.

REFUGEE RESEARCHERS LISTED IN DIRECTORY

Information about 150 of the world's leading academic researchers on refugee issues is included in The Directory of Current Research on Refugees and Other Forced Migrants.

The directory, published by the Refugee Studies Program of the University of Oxford, includes each scholar's areas of interest, academic discipline, sources of funding, and method of research. Also included is a bibliography, as well as indexes of researchers by discipline and regional areas of interest.

The selection of researchers is international, though not exhaustive, including scholars from Eastern Europe, Africa, and even the People's Republic of China. Some significant U.S. researchers were omitted.

The 119-page publication is available from the Refugee Studies Programme, Queen Elizabeth House, 21 St. Giles, Oxford, OX1 3LA, U.K.

Reader Exchange

° The Refugee Materials Center has announced that it will close November 30. Set up by the U.S. Department of Education to provide information to educators about refugees, the Center will distribute its remaining materials to the National Clearinghouses for Bilingual Vocational and Adult Education. Those interested in receiving free materials from the Center before November 30 should contact Bud Tumy, Refugee Materials Center, U.S. Department of Education, 10220 N. Executive Hills Blvd., 9th floor, Kansas City, MO 64153. (816) 891-7972.

INDOCHINESE REFUGEE ACTIVITY
FY 87 as of June 30, 1987

COUNTRIES OF ASYLUM/PPC's	SEPT. 30, 1986 POPULATION	FY 87 ARRIVALS	FY 87 REDUCTIONS TO U.S.	FY 87 REDUCTIONS 3RD COUNTRIES	FY 87 REDUCTIONS VOL. REPATR.	TRANSFER TO PPCs	JUNE 30, 1987 POPULATION
HONG KONG	8,386	1,429	41	1,429	0	372	7,838
MACAU	622	14	0	37	0	0	598
INDONESIA	4,411	1,301	224	1,788	0	1,024	2,619
MALAYSIA	7,900	6,552	517	2,587	0	2,921	8,349
PHILIPPINES	3,021	2,275	124	761	0	621	3,760
SINGAPORE	140	478	31	189	0	57	326
OTHER	1,374	80	23	329	0	159	890
THAILAND - KHMER	27,130	879	71	2,809	0	526	24,132
THAILAND - HIGHLANDERS	57,722	3,236	80	98	52	6,552	53,376
THAILAND - LAO	29,612	3,644	187	1,621	93	5,241	22,898
THAILAND - VIET. LAND	883	396	34	367	0	16	771
THAILAND - VIET. BOAT	5,896	6,611	202	755	0	1,211	10,281
SUBTOTAL THAILAND	121,243	14,766	574	5,650	145	13,546	111,458
TOTAL LAND REFUGEES	115,516	8,171	372	4,895	145	12,346	101,177
TOTAL BOAT REFUGEES	31,581	18,724	1,162	7,875	0	6,354	34,661
TOTAL 1ST ASYLUM	147,097	26,895	1,534	12,770	145	18,700	135,838
BATAAN-RPC	9,977	10,961	10,362	113	0	0	12,366
GALANG-RPC	621	7	611	0	0	0	0
PHANAT NIKHOM ESL/CO	3,699	7,915	4,666	0	0	0	6,916
TOTAL PPCs	14,297	18,883	15,639	113	0	0	19,282
GRAND TOTAL	161,394	26,895	17,173	12,883	145	18,700	155,120

Source: U.S. Department of State, Bureau for Refugee Programs.

REFUGEE REPORTS is published monthly for $28.00 per year for one subscription, $20.00 each for two or more subscriptions to the same addressee, or $20.00 each for ten or more subscriptions requested at the same time, mailed to separate addresses; overseas postage, $24.00 additional; by ACNS, 95 Madison Avenue, Third Floor, New York, NY 10016. Application to mail at 2nd class postage rates is pending at New York and additional mailing offices. POSTMASTER: send address changes to *Refugee Reports*, Sunbelt Fulfillment Services, P.O. Box 41094, Nashville, TN 37204.

Editorial comments and inquiries should be sent to: *Refugee Reports*, 815 Fifteenth Street NW, Suite 610, Washington, DC 20005. All communications regarding subscriptions should be sent to: Refugee Reports Subscriptions, Sunbelt Fulfillment Services, P.O. Box 41094, Nashville, TN 37204. (615) 377-3322.

Basic subscription rate for 12 issues per year: $28.00; Multiple-copy rate: $20.00; Single copies of back issues: $2.50.
Editor: Virginia Hamilton; Staff Writers: Bill Frelick, Court Robinson, Gary Young.
Production Coordinator: Koula Papanicolas.
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Refugee Reports

A Project of the American Council
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